

PART 2063 - EMPLOYEE RELATIONS AND SERVICES

SUBPART L - Administrative Grievance Procedure

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Exhibit A - DPM Chapter 771, Subchapter 4, "Agency Grievance System"

Exhibit B - DPM Chapter 771, Appendix A, "Grievance System"

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PART 2063 - EMPLOYEE RELATIONS AND SERVICES

Subpart L - Administrative Grievance Procedure

§2063.551 General.

This subpart establishes the Rural Economic and Community Development (RECD) Grievance System. It provides the Department and Agency procedures for the filing and consideration of employee grievances. It incorporates and supplements the following regulations of the U.S. Department of Agriculture. (Revised 03-20-96, PN 259.)

(a) Exhibit A - Chapter 771, Department Personnel Manual. Exhibit A of this Instruction prescribes authorities and responsibilities for establishment of administrative grievance systems within the U.S. Department of Agriculture.

(b) Exhibit B - Appendix A to Chapter 771, Department Personnel Manual. Exhibit B of this Instruction describes the grievance system and establishes the procedures to be followed by all Departmental agencies in resolving any matter of concern or dissatisfaction relating to the employment of an employee which is subject to the control of Agency management. Exhibit B includes examples of grievable and nongrievable matters, and prescribes procedures for employees to follow when filing grievances.

§2063.552 [Reserved]

§2063.553 Responsibility.

(a) The Assistant Administrator for Human Resources is responsible for: maintaining the Administrative Grievance System in accordance with the requirements and the attached procedures established by this Instruction and exhibits A and B; initiating, through the office of the Assistant Administrator for Human Resources, authoritative determinations and proposed procedural issuances affecting the System; and, reviewing the grievance processing performance of State Offices, the Finance Office and the Divisions and Staff Offices of the National Office. (Revised 03-20-96, PN 259.)

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§2063.553 (Con.)

(b) Supervisors and managers are responsible for insuring that employees receive fair and timely consideration of grievances at the informal level. Supervisors and managers will make reasonable, good faith attempts to resolve grievances throughout the informal and formal stages of the grievance process. (Revised 03-20-96, PN 259.)

(c) Reviewing officials are responsible for timely consideration. (Revised 03-20-96, PN 259.)

§2063.554 Policy.

RECD recognizes that disagreements will occur between employees and management from time to time and that it is to the benefit of all concerned to resolve such issues. This instruction endorses the policies established by the Department for the processing and resolution of administrative grievances. (Revised 03-20-96, PN 259.)

§2063.555 Definitions.

Specialized terms applicable to the Administrative Grievance System are defined in exhibit B, Section A-2. (Revised 03-20-96, PN 259.)

Agency grievance examiner. A person appointed by the Assistant Administrator for Human Resources, to conduct appropriate inquiry into a formal grievance and recommend a decision on the issue(s) of the grievance. The grievance examiner must be an individual who has not been previously involved in the matter(s) being grieved and who does not occupy a position subordinate to any official who recommended, advised, or made a decision on the informal grievance, or who otherwise is or was involved in the matter(s) being grieved.

Grievant(s). An employee or a group of employees, acting as individuals, who request personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management. (Revised 03-20-96, PN 259.)

Reviewing official. Usually a second level supervisor, who has executed block 20 of Form AD-435, "Performance Appraisal," concurring in a performance appraisal assigned by a first level supervisor. (Revised 03-20-96, PN 259.)

§2063.556 Administrative grievance coverage.

(a) Employees. Except as provided in exhibit B, Paragraph A-3a(2), which excludes noncitizens, aliens, and employees appointed under certain rarely used employment authorities, this grievance system applies to all non-bargaining unit employees of the Agency and to all bargaining unit employees not covered by a negotiated grievance procedure.

§2063.556 (Con.)

(b) Subject matter.

(1) Items covered. Examples of matters which can be grieved under this system are listed in exhibit B, Paragraph A-3b(1). Items listed (a) through (i) and items (1) and (m) are grievable within the agency.

(2) Items excluded. Matters listed in Exhibit B, Paragraph A-3b(2) and items (j) and (k) under Paragraph A-3b(1) cannot be grieved under this system.

§2063.557 Time limits - administrative grievances.

(a) It is the Agency's policy that employee grievances will receive prompt consideration. The time limits provided in exhibit B, Section A-5, have been established to insure that each grievance will be brought to prompt conclusion. (Revised 03-20-96, PN 259.)

(b) Exhibit B, Paragraph A-5b requires that agencies complete processing of a grievance within 90 calendar days following the date the grievant definitively indicates to the agency that an informal grievance is being initiated. This 90-day limit includes the time permitted for processing the informal and the formal grievance at the agency level. To insure compliance with the 90-day time limit, this Instruction establishes the following time allowances for the various levels of grievance processing.

(1) An informal grievance must be resolved or closed out within 20 calendar days following the date the grievance is presented to a supervisor or other responsible official. In those cases where informal resolution is not achieved, a memorandum closing the informal process must be forwarded to the grievant no later than close of business on the 20th day. (See exhibit B, Paragraph A-6a, for requirements concerning presentation, resolution and closing of informal grievances.)

(2) A grievant is allowed a maximum of 10 calendar days following the date of receipt of a memorandum closing the informal process to file a formal grievance. (See §2063.559(b) of this Instruction and exhibit B, Paragraph A-6b, for formal grievance filing requirements.)

(3) The Deputy Administrator for Operations and Management will issue a written proposed disposition of the formal

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grievance within 90 days after the date the informal grievance was initiated. This will allow approximately 60 days (including mailing time) for inquiry into the facts concerning the grieved matter and adjudication of the formal grievance.

(4) If for any reason, the grievant does not receive a proposed written disposition of a grievance within the 90 day time limit, he/she has the option of elevating the grievance to the Chief, Employee Appeals Staff, Office of Personnel as provided for in Exhibit B, Paragraph A-5g. The request to elevate the grievance to the Office of Personnel should be addressed to the Chief, Employee Relations Branch, FmHA, Room 6437-S, Independence Avenue and 14th Street, S.W., Washington, D.C. 20250 for recording and forwarding to the Chief, Employee Appeals Staff, Office of Personnel.

§2063.558 General provisions.

(a) Official time. The grievant and his or her representative (if an FmHA employee) shall be granted a reasonable amount of official time to present a grievance. It is FmHA policy that official time will not be granted to grievant and/or his or her representative for use in preparing grievances. (See Exhibit B, Paragraph A-4b.)

(b) EEO complaints. To avoid duplicative reviews, a forma, grievance on an issue that is also the basis of an EEO complaint will not be processed. In such instances, the grievance will be returned to the grievant. If the merits of the grievance are not addressed in the findings of the EEO complaint, the grievance should be resubmitted, along with a copy of the proposed EEO resolution, to the Deputy Administrator for Management for review and processing in accordance with the procedures established by §2063.559(b) of this Instruction and Exhibit B, Paragraph A-6b. If the merits of the grievance are addressed in the EEO findings, the grievance will be rejected. (See Exhibit B, Paragraph A-4e.)

§2063.559 Grievance procedures.

(a) Informal procedures. Procedures for filing an informal grievance are established in Exhibit B, Paragraph A-6a. Except as provided in Exhibit B, Paragraph A-6a(4), for a grievance to receive consideration, the matter at issue must first be presented to the agency, by the grievant, as an informal grievance. Failure to do so may be grounds for the rejection of a formal grievance.

(1) Exhibit B, Paragraph A-6a(2), requires that an informal grievance must be presented to the lowest level official in an organization who can make a decision on the matter being grieved, unless that individual is not known to the complainant, in which case the grievance shall be presented to the grievant's immediate supervisor.

(2) When an informal grievance is closed out without resolution, the official considering the grievance will prepare a memorandum to the grievant addressing the points listed in Exhibit B, Paragraph A-6a(3). When the grievance is resolved at the informal level, the official considering the grievance will prepare a memorandum to the grievant confirming the matters agreed upon by the Agency and the employee. Copies of all close out memorandums, for informal grievances resolved and not resolved, will be forwarded (with a copy of the complete grievance file if the grievance is not resolved) to the Chief, Employee Relations Branch, Personnel Division.

(3) Exhibit B, Paragraph A-6a(3), assigns responsibility for resolving a grievance and closing out the informal grievance process to the official considering the grievance. Within FmHA this official may be the grievant's first or second line supervisor, or other official who has authority to resolve the grievance. However, official actions to resolve or close out informal

grievances must be approved, and all close out memorandums executed, at the following management levels.

- (i) Field office employees - State Director,
- (ii) National Office employees - Responsible Assistant Administrator; and
- (iii) Finance Office employees - Assistant Controller.

(b) Formal procedures. Procedures for filing a formal grievance are established in exhibit B, Paragraph A-6b.

(1) A formal grievance must be filed in writing to the Deputy Administrator for Operations and Management, Rural Economic and Community Development, USDA, 14th and Independence Avenue, S.W., Washington, D.C. 20250. (Revised 03-20-96, PN 259.)

(2) When a formal grievance has been accepted, the Assistant Administrator for Human Resources, acting on behalf of the Deputy Administrator for Operations and Management, will appoint an Agency Grievance Examiner to analyze the issues of the grievance and prepare a proposed disposition to the grievant. (See exhibit B, Paragraph A-6b(2-3).)

§§2063.560 - 2063.600 [Reserved]

Attachments: Exhibits A and B

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Exhs A, B, & C not automated see manual